

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

1998 Biennial Regulatory Review --)
Amendment of Parts 2, 25 and 68 of the)
Commission's Rules to Further Streamline)
the Equipment Authorization Process for)
Radio Frequency Equipment, Modify the)
Equipment Authorization Process for)
Telephone Terminal Equipment, Implement)
Mutual Recognition Agreements and Begin)
Implementation of the Global Mobile Personal)
Communications by Satellite (GMPCS))
Arrangements)

GEN Docket No. 98-68

Reply Comments of Motorola, Inc.

Motorola, Inc., hereby submits its Reply Comments in response to comments filed in this proceeding. For the reasons set forth in its Comments filed July 27, 1998, and as set forth herein, Motorola urges the Commission to move forward to create a program of equipment authorization that will utilize Telecommunications Certification Bodies (TCBs) and that will provide for the implementation of mutual recognition agreements with the trading partners of the United States. Motorola also urges the Commission to proceed promptly with implementation of its interim certification program for GMPCS terminals.

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I. The Commission Should Set Service Goals for TCBs.

As Motorola explained in its Comments to this proceeding, the greatest benefit that can occur from this process would be to minimize the length of time associated with an effective approval process.¹ We therefore reiterate our proposal that the Commission set service goals for the TCBs, and that the TCBs be required to collect and publish their speed of service figures. This will help to promote competition among the TCBs.

II. The Commission Should Continue to Approve Equipment.

While pursuing this course, the Commission should continue to administer its own certification and registration programs. No arbitrary deadline should be set in this proceeding for the sunset of the Commission's own equipment approval processes. These Commission efforts should be terminated only after a future notice and comment proceeding in which the effectiveness of the programs that will grow from this proceeding has been evaluated with the benefit of hindsight born of actual operating experience. For the time being, these FCC programs should continue to exist in order to (1) provide an ongoing example for the TCB process; (2) to handle unusual applications that may require interpretations of the Commission's Rules in areas that are not well-settled; and (3) to satisfy the concerns of non-MRA participant

¹ Motorola proposed a goal calling for 90% of applications to be processed within 10 working days of receipt. Motorola Comments at 4, July 27, 1998.

countries that look to the Commission's approval as the key for unlocking U.S. participation in their domestic markets.²

Although the record in this proceeding reflects a desire by the commercial testing industry for the Commission to exit the scene as quickly as possible, the understandable goal of the testing industry to replace the Commission should not be the pacing factor. The overarching public policy concerns should focus on the need for the American consumer to have the benefit of new technology and for American workers to have ready access to markets around the globe. Both objectives should be pursued with the goal of minimizing regulatory delay and the disruption that inevitably accompanies substantial changes in procedures. For these reasons, the Commission's own programs need to continue to run in parallel with the TCB process. This is not the time for a "flash cut" approach to transitions, even on a piece-by-piece basis.

Motorola is sensitive to the need for TCBs to begin approving equipment and looks forward to using the TCB approach. At the same time, the change to TCBs will affect literally billions of dollars of commerce and hundreds of thousands of jobs. No matter how well designed the process and no matter how competent those who implement it, the transition to complete reliance on TCBs poses great risks. Quite likely, the time will come when the Commission and the industries that produce telecommunications equipment can rely confidently and solely on a privately run approval program administered by TCBs. That time, however, cannot be predicted on the basis of the record in this proceeding. Much depends on the "nuts and bolts" of

² Motorola also supports the Commission's taking steps to improve the recognition of TCB authorizations to U.S. standards by other nations that are not MRA participants. Motorola Comments at 5 - 7. These efforts, however, are not mutually exclusive with the FCC's maintaining its own approval program.

implementation, including education of all parties to the process. Accordingly, Motorola urges the Commission to refrain from establishing any specific sunset date for the existing programs. As the market gains experience with the TCB approach, the time for any such sunset should be revisited in a separate proceeding.³

III. The Commission Should Request NIST to Recognize Entities to Accredite TCBs.

The record in this proceeding reveals both uncertainty and a mix of views as to how the process of accrediting TCBs should be carried out. Motorola urges the Commission to implement a program by which the National Institute of Science and Technology (NIST) would recognize those bodies that are empowered to accredit TCBs. Thus, NIST should act in its “recognition” role rather than its “accreditation” role. This approach appears to be consistent with the preferences expressed by NIST and would provide for the more rapid deployment of accreditors.⁴ The American National Standards Institute (ANSI) has voiced its willingness to administer such an accreditation program.⁵ Motorola welcomes ANSI as a prospective accreditor and urges the Commission to work with NIST to pursue the recognition of ANSI for such a role.

Should the Commission and NIST decide to authorize multiple accreditors, all entities that provide accreditation services to TCBs should be held to the same basic standards, e.g. ISO Guide 61. The key will be for NIST to apply objective criteria fairly in the recognition process

³ The change likely to flow from this proceeding stands out as far greater than that which came from ET Docket 97-94 in which the Commission consolidated type acceptance and certification, eliminated type approval and notification, and began a system of electronic application filing.

⁴ NIST Comments at 1, July 27, 1998.

⁵ ANSI Comments at 2, July 20, 1998.

and for the accrediting bodies to do likewise in their accreditation of TCBs. To the extent there are differences, these should be based on such market factors as the ability to respond quickly to the needs of TCBs by marshaling the resources needed to provide accreditation services.

As Motorola noted in its Comments, laboratories that supply data to TCBs pursuant to contract should not be subject to mandatory accreditation.⁶ Instead, accreditation of laboratories should be an option by which a TCB can gain confidence in the competence of a subcontracting lab. If accreditation is required of those labs that supply data to TCBs, the equipment authorization process will no longer resemble a private sector replacement for work now conducted by the Commission. It will instead function as a more expensive, and probably more time consuming, substitute for the current system. In short, the new version would not be an improvement. To require that all labs that supply data to TCBs be accredited would either add a second layer of accreditation onto the process or force many otherwise competent labs out of doing this work and result in the TCBs assuming all, if not most, of the testing work. The end result will add costs and ultimately delay. It is not likely, however, to improve the process of getting products to market.

IV. The Commission Should Not Adopt Requirements that Impose Significantly Greater Record Keeping Burdens.

Any new procedures and record keeping requirements should be closely scrutinized to avoid the imposition of costs on all consumers when to do so would afford marginal benefits. Thus, the Commission should refrain from imposing a requirement that manufacturers track the

⁶ Motorola Comments at 7 - 9.

identity of users of their equipment or provide certifications every six months as to continuing compliance. A tracking requirement would be largely impractical. It would necessitate massive amounts of record keeping throughout the chain of commerce.⁷ Continuing compliance is already an ongoing obligation for the holders of Commission grants of equipment authorization. The filing of a certificate of compliance every six months with the TCB that authorized the product would add another layer of paperwork in the process without an added benefit.⁸

New programs inevitably require change and change often leads to additional requirements. Any such requirements, however, should clearly bring benefits that outweigh the burdens they create.

V. The Commission Must Not Delay the Implementation of Its GMPCS Certification Program.

In its comments, the U.S. GPS Industry Council ("GPS Council") expresses its concern that the Commission's GMPCS certification program could have an unacceptable impact on GPS. That impact, according to the GPS Council, stems from the possibility that "the operation of GMPCS equipment under certain conditions could cause loss of GPS signal reception or errors in position or time accuracy."⁹ While the GPS Council does not offer any specific data or studies to support its claim of possible harm, Motorola is willing to work with members of the GPS Council to assure that appropriate technical assessments of its GMPCS terminal equipment

⁷ In this regard, the suggestion of Metricom that such records be maintained should be rejected.

⁸ The recommendation of International Certification Services calling for such a requirement should be rejected.

⁹ GPS Council Comments at 3, July 27, 1998.

and properly designed and manufactured GPS receivers are undertaken reasonably and responsibly.

As Motorola noted in its Comments in this proceeding, the Commission specifically stated that protection of GNSS, including GPS, is more properly addressed in the context of RM-9165, where NTIA has proposed that out-of-band signals in the 1559-1605 MHz band from MSS mobile Earth terminals operating in the 1610-1660.5 MHz band ultimately be limited to -70 dBW/MHz for wide band emissions and -80 dBW/700 Hz for narrow band emissions.¹⁰ The Commission stated that it "will initiate a separate rule making to consider the NTIA proposal."¹¹ It further indicated that the issues raised by the NTIA petition in RM-9165 were intended to resolve any out-of-band emission questions concerning protection to GNSS, including GPS. Moreover, the Commission has stated that MSS satellite operators, service provider and mobile earth terminal manufacturers "are advised that all final FCC equipment approvals will be conditioned on meeting the requirements and procedures adopted in our future GMPCS MoU implementation proceeding, including the specific spurious and out-of-band emission limits adopted in that proceeding."¹² It is clear, therefore, that the Commission is mindful of the concerns expressed by the GPS Council and will evaluate appropriately conducted technical studies in a forthcoming rule making proceeding.

¹⁰ Motorola Comments at 15.

¹¹ *Id.*; NPRM at ¶ 44.

¹² NPRM at ¶ 46.

The GPS Council asserts that imposition of the interim out-of-band emission standard contained in RM-9165 to GMPCS terminals "may not adequately protect GPS."¹³ However, the GPS Council provides no study, technical showing, or analysis to support its claim. Indeed, the GPS Council bases its assertion solely on what it admits are incomplete empirical analyses of "preliminary conclusions."¹⁴ As Motorola understands it, the GPS Council would halt the international deployment of MSS terminals by U.S. companies on the basis of a technically unsubstantiated claim of possible interference to GPS receivers of unknown integrity. While Motorola supports, in principle, further studies to determine whether properly designed and manufactured GPS receivers would experience unacceptable interference from GMPCS terminals, the Commission should examine the issue in precisely the way it has proposed, *i.e.*, in the context of the rule making proceeding following RM-9165.¹⁵

For these reasons, Motorola urges the Commission to proceed with its interim certification program for MSS terminals and to consider the GPS Council's concerns in the appropriate rule making proceeding.

¹³ GPS Council Comments at 6.

¹⁴ *Id.* at 7.

¹⁵ As noted, the Commission has indicated that it would condition all final FCC equipment approvals on the requirements and procedures adopted in future rule making proceedings, including spurious and out-of-band emission limits. The GPS Council will have a full opportunity to participate in those proceedings.

Conclusion

This proceeding marks another milestone in the Commission's efforts to better serve the needs of American consumers and to foster a more competitive international marketplace. Motorola urges the Commission to move forward with this effort. At the same time, the Commission should not abandon existing processes until such time as it has had the benefit of further comment on the functioning of the new processes. In establishing the new approach, the Commission should invite NIST to recognize those bodies that will accredit TCBs. Motorola also urges the Commission not to delay implementation of its GMPCS equipment certification program.

Respectfully,

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